

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CHARLES WILLIAM HEAD,

Plaintiff,

v.

JAMES RAYMOND WHITE and
MASTEC NORTH AMERICA, INC.,

Defendants.

Civil Action No. _____

NOTICE OF REMOVAL

COME NOW Defendant James Raymond White, with the consent of Defendant MasTec North America, Inc. (hereinafter collectively referred to as “Defendants”), by and through undersigned counsel, and file this Notice of Removal pursuant to 28 U.S.C. § 1441 and 1446, showing this Court as follows:

1.

Defendants are defendants in a civil action filed in the State Court of Gwinnett County, State of Georgia, Civil Action Number 21-C-08938-S6. This Notice of Removal is filed with the United States District Court for the Northern District of Georgia, Atlanta Division, within thirty (30) days of service upon Defendant James Raymond White (“Mr. White”) of the initial pleading setting forth the claim for relief

upon which the action is based. Under the last-served defendant rule, adopted by the Eleventh Circuit and Georgia federal courts, Mr. White is entitled to file this removal though Defendant MasTec North America, Inc. (“MasTec”) has already entered an appearance. *See e.g., Bailey v. Janssen Pharmaceutica, Inc.*, 536 F.3d 1202, 1208–09 (11th Cir. 2008); *Newman v. Wal-Mart Stores E., L.P.*, No. 7:15-CV-165 (HL), 2015 WL 7258497, at *2 (M.D. Ga. Nov. 17, 2015). Defendant MasTec consents to this removal.

2.

Defendants attach hereto as Exhibit “A” a true and correct copy of all of the process, pleadings (as defined by Federal Rule of Civil Procedure 7), and Orders served on Defendants in this action to date, as required by 28 U.S.C. § 1446(a).

3.

The United States District Court for the Northern District of Georgia, Atlanta Division, is the district court having jurisdiction over the place where the state action is pending pursuant to 28 U.S.C. § 90(a)(2).

4.

A copy of this Notice of Removal has been filed with the Clerk of the State Court of Gwinnett County, State of Georgia, as required by 28 U.S.C. § 1446(d).

DIVERSITY OF JURISDICTION

5.

Removal in this case is proper pursuant to 28 U.S.C. § 1332(a)(1).

6.

Plaintiff is a citizen and resident of Georgia.

7.

Defendant MasTec North America, Inc. is a Florida corporation organized and existing under the laws of the State of Florida with its principal place of business in Coral Gables, Florida.

8.

Defendant James Raymond White is an individual who resides in Altha, Florida, and is a citizen of Florida.

9.

This controversy is, therefore, between citizens of different states pursuant to 28 U.S.C. §§ 1332(a)(1) and 1332(c)(1).

10.

To establish that the amount-in-controversy requirement is met under 28 U.S.C. § 1446(a) in a notice of removal, a defendant need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. *Dart*

Cherokee Basin Operating Co., LLC v. Owens, 574 U.S. 81, 89 (2014). Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant's allegation. *Id.*

11.

Defendants allege that Plaintiff's claims plausibly exceed the jurisdictional threshold of \$75,000.

WHEREFORE, Defendants pray that this Notice of Removal be filed and said action be removed to proceed in this Court and that no further proceedings be had in the State Court of Gwinnett County.

Respectfully submitted this 4th day of March, 2022.

/s/ Kenan G. Loomis

Kenan G. Loomis

Georgia Bar No. 457865

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White and MasTec North America, Inc.*

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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2022, I electronically filed the foregoing ***NOTICE OF REMOVAL*** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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This 4th day of March, 2022.

/s/ Kenan G. Loomis

Kenan G. Loomis
Georgia Bar No. 457865